



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/641,773	08/18/2000	Kenneth R. Goguen	07072-938001	7321

7590

04/02/2003

Hale And Dorr LLP
60 State Street
Boston, MA 02109

EXAMINER

TSAI, CAROL S W

ART UNIT	PAPER NUMBER
----------	--------------

2857

DATE MAILED: 04/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/641,773

Applicant(s)

GOGUEN ET AL.

Examiner

Carol S Tsai

Art Unit

2857

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-5.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


MARC S. HOTTELSUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Continuation of 5. does NOT place the application in condition for allowance because:

Applicant's arguments filed 03/11/2003 have been fully considered but they are not deemed to be persuasive.

Applicants argue that Voigt reference does not in any way disclose or suggest validating and correcting to system performance. The Examiner disagrees with Applicants. Voigt et al. do disclose a method for improving and specifying performance of storage system by 1) sampling a plurality of performance measuring standards that is defined for measuring a plurality of performances during the operation of a data storage system (accumulating data regarding the performance of the mass storage system); 2) specifying a expected value for validating the performance; 3) giving one or more proposals which are useful for improving the performance of the data storage system if one or more performance measuring standards do not meet the expected value (processing of validating and correction) (see Voigt et al. Solution, lines 1-10). Therefore, the combination of Hale et al. and Voigt et al. clearly disclose the claimed invention.

Applicants argue that one skilled in the art would not consider combining the teachings of Hale et al. and Perera et al. because Hale et al. is directed to measuring performance in a mass storage system having plurality of disk drivers and Perera et al. is directed to error detection and correction in an optical storage system. The Examiner disagrees with Applicants. Perera et al. disclose error detection and correction in an optical storage system. However, it is well known in the art that the processing of error detection is followed by the processing of performance measuring, since the system performance should be measured first, then the processing of correction can be required if there is an error existing during the processing of measuring. Therefore, Perera et al. is properly combinable with Hale et al. under 35 USC § 103.